



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

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Memorandum

Date: January 21, 2016

To: Fran L'Heureux, Chair, & Members, Zoning Board of Adjustment

From: Robert Price, Assistant Planner

Subject: **Michael Moquin (petitioner/owner)** – Variance under Section 2.02.4 (B) of the Zoning Ordinance to permit a Multi-Family dwelling in the I-1 (Industrial) district. The parcel is located at 56 Daniel Webster Highway in the I-1 (Industrial), and Aquifer Conservation Districts. Tax Map 2D, Lot 030. Case # 2016-01.

Michael Moquin (petitioner/owner) – Variances under Section 3.02 of the Zoning Ordinance to permit a Multi-Family dwelling on a lot of 43,560 s.f. whereas 120,000 s.f. is required; frontage of 150 feet whereas 200 feet is required; side setback of 30 feet whereas 50 feet is required; rear setback of 30 feet whereas 60 feet is required. The parcel is located at 56 Daniel Webster Highway in the I-1 (Industrial), and Aquifer Conservation Districts. Tax Map 2D, Lot 030. Case # 2016-02.

The following information is provided to aid in your consideration of the above referenced cases. Additional background and application materials are included in your packet.

Background:

Map 2D, Lot 30 is located at 56 Daniel Webster Highway in the I-1 (Industrial) and Aquifer Conservation Districts and is abutted by S&J Motor Company, Skip's Marine, FW Webb (former Nashua Corp. building) and Nanocomp Technologies. The property is serviced by municipal water and sewer.

In 1997, this property was granted a Special Exception to allow a residential use in the Industrial District and also a variance to allow a two-family dwelling in the Industrial District. In 2003, an Administrative Decision that a 40' x 50' detached garage *was not* a customary secondary accessory building to a two-family residential dwelling was overturned by the ZBA (meaning that the ZBA felt the garage *is* a customary secondary accessory building) and subsequently, a rear setback variance was granted.

The petitioner now comes before the Board seeking to convert approximately 800 square feet of the 2,000 square foot garage into living space. Such action would create three dwelling units on the same property and thus, must be declared a multi-family dwelling per RSA 674:43. This is not considered an Accessory Dwelling Unit because ADUs are specific to single-family dwellings (see Section 2.02.1(B)(2)(a)).

In addition to the initial request noted above, the applicant requires four variances for dimensional-related deficiencies. Since the property is serviced by public water and sewer, the dimensional criteria for the R-4 District apply. While the garage was initially granted relief for the rear setback

in 2003, it did not house a residential unit at that time. The addition of the dwelling unit as part of the current application necessitates the second facet of this application.

If the petitioner is successful in obtaining the required variances, they are required to go before the Planning Board for site plan review, per RSA 674:43.

Standard of Review:

It is the burden of the petitioner to demonstrate that the five criteria for the granting of the five variances have been met for the following requests:

- Under Section 2.02.4 (B) of the Zoning Ordinance to permit a Multi-Family dwelling in the I-1 (Industrial) district;
- Under Section 3.02 of the Zoning Ordinance to permit a Multi-Family dwelling:
 - On a lot consisting of less than the required lot area (43,560 s.f. whereas 120,000 s.f. is required);
 - On a lot consisting of less than the required frontage (150 feet whereas 200 feet is required);
 - In a structure with less than the required side setback (30 feet whereas 50 feet is required); and
 - In a structure with less than the required rear setback (30 feet whereas 60 feet is required).

If the Board grants the requested variances, staff recommends that the following condition be applied to each variance:

- The petitioner shall obtain site plan approval from the Planning Board for the proposed multi-family dwelling.

Cc: Zoning Board File
Correspondence

Ec: Michael Moquin (mmoquinm@comcast.net)
Fred Kelly, Building Official
Carol Miner, Building Department Secretary
Captain John Manuele, Merrimack Fire Department